



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, OH 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

June 27, 2006

**BELMONT COUNTY
WPS-MARTINS FERRY
DHWM/SEDO
OHD010448231**

Mr. Pat Smith
Wheeling Pittsburgh Steel Corporation
Commercial Avenue
Mingo Junction, Ohio 43938

Dear Mr. Smith:

On April 20, 2006, Robert Smith of U.S. EPA Region V, Rich Stewart and I inspected Wheeling Pittsburgh Steel Corporation's (WPSC) Martins Ferry Plant to determine WPSC's compliance with Ohio's hazardous waste laws and regulations, as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC). This letter will identify and explain any violations we found, what you need to do to correct the violations, other general concerns/comments and pollution prevention opportunities we identified.

During the inspection, the following violations of Ohio's hazardous waste laws were identified. **In order to correct these violations, you must do the following and submit the required information to this office within 30 days of your receipt of this letter. It is anticipated that the violations discovered during the April 20, 2006 inspection will be corrected quickly (or already have been corrected) by WPSC. Outstanding violations from past inspections are anticipated to be addressed under timelines established in the settlement agreement with the U.S. Department of Justice.**

- (1) **OAC Rule 3745-273-13(A)(1) and (D)(1), Standards for Small Quantity Handlers of Universal Waste:** A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. (D)(1): Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: (1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

Containers holding spent batteries and lamps were not closed, in violation of this rule. In order to demonstrate compliance with this rule, WPSC must close all containers holding universal waste batteries and containers holding spent lamps and submit documentation to this office showing the closed containers.

- (2) **OAC Rule 3745-273-14(A) and 14(E), Labeling/Marking standards for Small Quantity Handlers of Universal Waste:** Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)." (E): Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste - Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

Containers holding universal waste batteries and containers holding spent lamps were not labeled in violation of this rule.

In order to demonstrate compliance with this rule, WPSC must label all universal waste containers with the above identification in accordance with its contents and submit documentation to this office for review.

- (3) **OAC Rule 3745-273-15(C), Accumulation Time Limits:** A small quantity handler of universal waste who accumulates universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste.

WPSC did not have a system in place to determine how long a universal waste has been accumulated, in violation of this rule.

In order to demonstrate compliance with this rule, WPSC must initiate a method as outlined in the rule to determine the length of time a universal waste has been accumulated. Documentation of the chosen methodology must be submitted to this office for review.

Unresolved violations are also outstanding from past hazardous waste inspections at WPSC's Martins Ferry facility as noted below:

On November 7 and 14, 2001, Ohio EPA conducted a compliance inspection of Wheeling Pittsburgh Steel Corporation's (WPSC) Martins Ferry Plant. The inspection was conducted to determine WPSC's compliance with Ohio's hazardous waste laws and regulations, as found in the Ohio Revised Code and Ohio Administrative Code (ORC and OAC, respectively). Based on the observations from this inspection, Ohio EPA issued a Notice of Violation (NOV) letter to WPSC on December 12, 2001. Your response to this letter was received on April 24, 2002. A subsequent NOV was issued to you on September 16, 2002, and your response was received on January 31, 2003. On May 27, 2003, an eighth NOV was issued and I received

your response on July 2, 2003. On November 3, 2003, another NOV was issued and your response was received on March 15, 2004. Analytical results for paint waste were received via fax on April 5, 2004. WPSC remains in violation of the following regulations:

- (1) **Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities**, OAC Rule 3745-270-07(A)(7) & (A)(8): (A)(7) If a generator determines he is managing a prohibited waste that is excluded from the definition of hazardous waste or waste, or is exempt from regulation as a hazardous waste under rules 3745-51-02 to 3745-51-06 of the OAC subsequent to the point of generation...including wastes managed in wastewater treatment systems subject to CWA...he shall place in the generator's files a one-time notice describing such generation, subsequent exclusion from the definition of hazardous waste...or exemption from regulation as a hazardous waste, and the disposition of the waste; (A)(8) Generators shall retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this rule for at least three years from the date that the waste that is subject to this documentation was last sent to on-site or off-site treatment, storage or disposal.
 - A. WPSC has not provided a copy of the one-time notification for the acid and alkali baths and sludges (D002) which are treated in WPSC's WWTP as required by paragraph (A)(7) of this rule. The March 2004 response, as the April 2002 also stated, that these wastes are treated in their WWTP and thus exempt from RCRA regulation. **As stated in the November 3, 2003 NOV, OAC Rule 3745-51-04(A)(2) provides that "This exclusion applies only to the actual point discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment."** Compliance can be demonstrated by submitting a copy of the required notifications to this office.
 - B. In the March 2004 response, WPSC states that hazardous waste notifications are maintained at this plant. Compliance can be demonstrated by stating that a copy of the notification required above is maintained at this plant.

On June 8 to 11, 1999, Ohio EPA and USEPA conducted a multi-media compliance inspection of this facility. Based on the information provided and observations made during the inspection, Ohio EPA sent a NOV to WPSC on August 26, 1999. Ohio EPA received WPSC's response on December 13, 1999. A second NOV was issued on June 30, 2000. A partial response, pertaining to the ARCO scrubber waste was received on December 4, 2000. A third NOV was issued March 19, 2001, and the response to the third NOV was received on April 23, 2001. The fourth NOV was sent on August 2, 2001; however, no response was received. A fifth NOV was sent on September 19, 2001. A response to that letter was received on October 15, 2001, however, it contained insufficient information and no documentation to demonstrate compliance for any of the cited violations.

The following violations remain outstanding from the June 1999 inspection:

- (2) **Prohibitions** ORC Rule 3734.02(E)&(F): No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter...

During the 1999 inspection, out-of-service equipment (the ARCO system duct work and a tank) containing hazardous waste (D008) was discovered in the "lay-down" yard, north of the Plant #1 building. Based on your air permit and discussions with plant personnel, the ARCO scrubber system was removed prior to June 1990 when the new scrubber system was installed. Based on this information, WPSC has stored this hazardous waste illegally from at least September 1990 until July 2, 2001, (when WPSC manifested the remainder of the ARCO waste off-site), well beyond the 90 days allowed for Large Quantity Generators. WPSC has also disposed of hazardous waste due to releases during that time-period and no attempt to remediate those releases was made until directed to by Ohio EPA.

WPSC's March 2004 response states that WPSC believes that the limited sampling and removal activities which WPSC has performed, documentation provided in the November 30, 2000 response, are sufficient to protect the environment and satisfy the rules. **However, WPSC disposed of another rolloff container of D008 waste (manifest #78055 - est. 4000 lbs) from ARCO-related equipment on July 2, 2001-after the date of WPSC's generator closure activities.** No additional information has been provided regarding where this material was stored or whether additional releases occurred. Additionally, the results for a sample (# MF-TAK01005) from "North Yard Ductwork," which was collected on April 5, 2001, were not provided to this office for review and may have prompted the disposal of the waste on July 2, 2001. Based on this information, Ohio EPA disagrees with WPSC's assessment that additional closure activities are not needed.

In order to demonstrate abatement of this violation, WPSC must demonstrate that no contamination remains from the ARCO scrubber waste that was stored in the lay-down yard which is adjacent to the local public wellfield. WPSC has stated that they have monitored groundwater for ten years and "there is no indication of contaminant movement to the wells." Such data has not been provided to Ohio EPA and does not address potential soil contamination. To demonstrate that contamination does not remain, closure of this storage area in accordance with the requirements of OAC Rules 3745-66-10 through 3745-66-20 (including implementation of an approved closure plan) is required. This facility will be subject to all applicable TSD standards as set forth in OAC Chapters 3745-65 through 3745-65-69 until WPSC demonstrates that the closure standards in OAC Rule 3745-66-11 have been met through the implementation of an approved closure plan.

- (3) **Maintenance and operation of facility**, OAC Rule 3745-65-31: Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any release of hazardous waste constituents to air, soil or surface water.

- A. At the time of the June 1999 inspection, WPSC had accumulated at least five different wastes in a remote portion of the facility, north of the Plant #1 building. These wastes had not been evaluated, labeled, dated or been placed into proper containers. In response to Ohio EPA's concerns voiced during the June 1999 inspection, WPSC sampled the wastes. One waste, from the former ARCO scrubber system was determined to be a D008 hazardous waste. This waste was not in a container and some of the waste had washed onto the ground and possibly into a nearby storm drain. Based on employee statements, sampling documents and a waste manifest, WPSC had continued to store D008 waste in this area until July 2001. Similar violations regarding hazardous waste storage were discovered in this same area during the September 1994 inspection. Several unidentified wastes, including at least four drums of hazardous waste, were stored in this same area for an unknown time period. WPSC's March 2004 response states, as did the June 2003 response, that WPSC believes that this rule does not apply to this facility but that WPSC is drafting ISO 14001 procedures for overall waste management at all WPSC plants, however, no documentation has been provided which demonstrates these actions have been taken. Compliance will be demonstrated when WPSC provides documentation to this office which indicates that this plant has implemented procedures for properly identifying, evaluating and managing all wastes that are generated on-site and for decontaminating tanks or other equipment which may contain hazardous wastes when they are taken out of service.
- B. During the 2001 inspection, extensive staining was observed under the process line where Chemtreat is applied to the steel. The June 2002 response continues to assert that these are "de minimus losses." The exemption in OAC Rule 3745-51-03 (A) for these types of losses applies to discarded chemical products or chemical intermediaries listed in OAC Rule 3745-51-33. WPSC has not produced any documentation that this material meets any of these listings. The response also states that these spills have floor dry applied to them and this waste is collected sometime after saturation. These procedures, **with no timeframe for removal of leaked waste, are inadequate.** The leakage/spillage must be cleaned up in a more timely manner and leaks, if present, must be repaired promptly. WPSC's March 2004 response repeats its assertion that this rule does not apply to this facility. Compliance will be demonstrated when WPSC: 1) drafts appropriate procedures for addressing these spills; 2) posts these procedures at the Chemtreat equipment and trains the employees responsible for this area on these procedures; and 3) provides copies of these procedures and documentation that the affected employees have received this information.
- (4) **Purpose and implementation of contingency plan**, OAC Rule 3745-65-51(B): The provisions of the contingency plan shall be implemented immediately whenever there is a fire, explosion, or release (any unplanned, sudden or non-sudden release) of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

WPSC has not demonstrated that the contingency plan was implemented when they found that the ARCO scrubber waste (D008) had been released onto the ground near a storm drain which empties directly to the Ohio River. These conditions may have caused, or had the potential to cause, surface water contamination and the potential for generating lead-containing dust. WPSC's March 2004 response reiterates the assertion that WPSC did not consider this material a waste. Even if this equipment was from a production process, material in this equipment would have become waste once the equipment was out-of-service for 90 days (OAC 3745-51-04(C)). However, WPSC is not afforded the 90 days under this rule because this is not from a production process but rather from a waste treatment. Additionally, this unit was removed from the waste treatment process in 1990 and stored/disposed on the ground. Secondly, WPSC's March 2004 response cites Ohio EPA's Guidance Concerning Contingency Plan Implementation and Incident Reporting, implying that it supports WPSC's position that this was not an incident requiring implementation of the contingency plan. WPSC fails to cite the examples provided in the guidance that directly pertain to this incident, examples #4 and #5: "Any hazardous waste release, outside of a secondary containment system, that causes or has the potential to cause off-site soil and/or surface water contamination; or Any hazardous waste release that produces or has the potential to produce hazardous conditions including...harmful dust or explosive conditions." This violation will be abated once WPSC demonstrates that facility personnel have been properly trained on implementing the contingency plan whenever any hazardous waste is released to air, soil or surface water which could cause off-site contamination or could create potentially hazardous conditions on-site.

- (5) **Emergency procedures**, OAC Rule 3745-65-56(J): Within fifteen days after the incident (that requires implementation of the contingency plan), the owner or operator shall submit a written report on the incident to the director. The report shall include: 1) Name, address and telephone number of the owner or operator; 2) Name, address and telephone number of the facility; 3) Date, time and type of incident; 4) Name and quantity of material(s) involved; 5) The extent of injuries (if any); 6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; 7) Estimated quantity and disposition of recovered material that resulted from the incident; and 8) Any other information the director may require.

WPSC did not report the release of the ARCO scrubber waste (D008) in the lay-down yard. The March 2004 response disagrees with the application of this rule and refers to WPSC's previous responses which have incorrectly assumed that implementing the contingency plan and emergency procedures was not warranted for this situation (potential or actual release of D008 waste to surface water and potential to create hazardous conditions on-site). To demonstrate compliance with this rule, provide the required report, with all required information, to the director and to this office.

- (6) **Closure Plan**, OAC Rule 3745-66-12(A): The owner or operator of a hazardous waste management facility shall have a written closure plan.

WPSC does not have a closure plan for the ARCO Waste Storage Area. WPSC's March 2004 response again states that WPSC disagrees with Ohio EPA's requirement of a formal closure plan. As stated previously, a formal closure plan is warranted based on the length of time that the waste (D008) was illegally stored (ten years, increasing the potential for release and the distance the release could have traveled); the contaminant involved (lead - it does not degrade over time as organic compounds can); the release potential (the waste was not stored in a closed container) and data indicating the presence of lead in the nearby storm drain basin and data from the 1996 closure which was performed adjacent to this area; and the proximity of this area to a public wellfield. The closure plan should be prepared in accordance with Ohio EPA's Closure Plan Review Guidance (CPRG) for RCRA Facilities, March 1999. This violation will be abated once the closure plan for this area is received by this office and Ohio EPA's Central Office.

The following violations will be abated once WPSC completes the activities contained in an approved closure plan for the ARCO Waste Storage Area.

- (7) General inspection requirements, OAC Rule 3745-65-15;
- (8) General waste analysis, OAC Rule 3745-65-13;
- (9) Operating record, OAC Rule 3745-65-73.

General Comment:

As stated previously, please note that WPSC is required to provide a closure cost estimate and establish financial assurance for the ARCO Waste Storage Area closure pursuant to OAC Rule 3745-66-40 et seq. These requirements apply to unpermitted Treatment, Storage or Disposal Facilities (TSDFs). If you have questions regarding closure cost estimates and financial assurance requirements, please contact Jeanette Smith at Ohio EPA's Central Office, (614) 644-2973.

Please feel free to contact me at 740-380-5262 with any questions you may have.

Sincerely,



John Rochotte
District Representative
Division of Hazardous Waste Management

JR/dh/mlm

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cc: Bud Smith, WPSC-Wheeling, WV
Jim Kavalec, DHWM, CO
Greg Poulos, AGO
Robert D. Smith, U.S. EPA Region V

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.